



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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IRM 5.9.17.11

MEMORANDUM FOR DIRECTOR, FILING AND PAYMENT COMPLIANCE
DIRECTOR, ADVISORY AND INSOLVENCY

FROM: Dretha Barham /s/ *Dretha Barham*
Director, Collection Policy

SUBJECT: Reissuance of Interim Guidance Procedures for Closing
Chapter 7 Cases

The purpose of this memorandum is to reissue interim guidance SBSE-05-0113-006, *Closing Chapter 7 Cases*, dated January 29, 2013. Please disseminate to all affected personnel within your organization.

This memorandum provides interim guidance for processing individual and business Chapter 7 bankruptcy cases under new guidelines. The provision in the Internal Revenue Service IRM 5.9.17.9(4) related to individual cases and IRM 5.9.17.11(1) related to corporate cases requiring the Insolvency caseworker to wait six months after the bankruptcy petition is filed before closing a Chapter 7 bankruptcy case has been removed. Additionally, the requirement in IRM 5.9.17.9(4) that an Insolvency caseworker must also contact the trustee in a Chapter 7 individual case regarding possible distributions has also been removed. The procedures to close these cases are clarified in the two attachments. Please disseminate this information to all affected personnel within your organizations. These procedures will be incorporated into IRM 5.9.6.7, 5.9.17.9 and 5.9.17.11.

This memo does not change the procedure in individual Chapter 7 Asset no liability cases which are open only due to trustee turnover requests. These cases can continue to be reassigned to the CIO after the initial case analysis if the caseworker has determined this is truly a no liability case. There is no need to wait for the discharge to transfer the case to the CIO.

If you have questions, please contact me, or members of your staff should contact Revenue Officer Maria Orfanakis at maria.orfanakis@irs.gov.

Attachment 1 (Individual)

Attachment 2 (Corporate)

cc: www.irs.gov

Director, Field Collection

Director, Campus Compliance Services

Office of Chief Counsel

National Taxpayer Advocate

ATTACHMENT 1 – CLOSING INDIVIDUAL CHAPTER 7 ASSET BANKRUPTCY CASES

Background

IRM 5.9.17.9.(4) provides that Field Insolvency caseworkers should contact the trustee by phone or using AIS Letter 984, *Request for Payment from Trustee*, regarding possible distributions in an individual Chapter 7 Asset case. The case should be left open if it is anticipated that distribution will occur in the next six months. IRM 5.9.6.7(12)(d) provides that the caseworker should make this contact 30 days after the projected date for the trustee's interim report, if PACER reflects this date, or 30 days after the bar date if no date for the interim report has been set.

During operational reviews, it was determined that caseworkers do not generally obtain any information regarding distributions when they contact the trustee early in the case, and there is no reason to hold the case open for six months if the only purpose is to wait for a possible distribution. The trustee may not make a distribution until several years after the case is filed. Holding the case open may also delay the release of the federal tax lien in those cases where it is appropriate to release the lien on dischargeable debt not listed as an exception below. If no other action is required, many individual Chapter 7 Asset cases can be reassigned to the Centralized Insolvency Operation (CIO) for closing once the caseworker has completed the initial review, resolved all issues requiring the case to remain open, filed the proof of claim, and determined that the debtor has received a discharge. Field Insolvency employees are to input the Regular (discharge request) Initiated (RI) to begin the discharge process by Automated Discharge System (ADS) prior to transferring the case to CIO for closure.

Local procedures should be brought in line with the procedures outlined in this memorandum.

Procedures

The following procedures are effective immediately for all individual Chapter 7 Asset bankruptcy cases:

Field Insolvency caseworkers should complete the initial case review pursuant to IRM 5.9.6.7(12) and address any issues raised, with the exception that the trustee should be contacted regarding distribution. There is no longer a provision to contact the Chapter 7 trustee merely to ask about potential distribution.

Once the debtor has received a discharge, all issues raised by the initial case review have been addressed, there are no other issues requiring resolution, and the proof of claim has been filed, the caseworker must input "RI" in the case closure field and reassign the case to the CIO. There is no longer a need to keep the case open for six months if the only reason is to wait for a possible distribution.

On cases where investigations for exempt, abandoned, or excluded property have been concluded and no further actions will be required, the field caseworker must input the

case classification code “No EAEP” before reassigning the case. Additionally if there is no indication of willful failure to pay, the case classification code “No FTP” must be input. These actions will prevent the issuance of discharge determination reports by ADS for these two issues.

Discharge determination reports on cases assigned to field insolvency caseworkers must be resolved prior to transferring the case to CIO. Caseworkers should continue to follow the actions specified in the table in IRM 5.9.17.9(4), with the exception that the trustee is contacted regarding distribution and the case be held open for the six-month period. If the module is to be abated, the caseworker should input the “F” in ADS and reassign the case. The CIO manager will approve the action in ADS immediately allowing for the timely release of any federal tax lien(s) and related Notice(s) of Federal Tax Lien (NFTL).

The caseworker may not input “RI” and transfer the case to the CIO if:

- There are required case actions which have not been taken.
- There is a Notice of Federal Tax Lien on file and in the initial case review the caseworker determines that the IRS will be filing a secured claim, or the caseworker identifies exempt, abandoned or excluded property that may be used to satisfy the taxpayer’s liability after the discharge is granted. In these situations, the case must be held open; a lien refile review must be conducted during initial case review [see IRM 5.9.6.7(12)(f)] and NFTLs must not be released [see IRM 5.9.17.9(4)].
- The field caseworker initiated the closing actions and is waiting for transactions to post, is working unpostables, or is working issues that should not be assigned to the CIO. Additionally, the case worker should not assign the case to the CIO if there are pending actions on discharge determination reports (DDR) assigned to the field caseworker.

ATTACHMENT 2—CLOSING CORPORATE CHAPTER 7 ASSET BANKRUPTCY CASES

Background

IRM 5.9.17.11(1) provides that Chapter 7 corporate bankruptcy cases should be closed six months after the bankruptcy petition is filed if no issues remain open, and there is only a slim chance that the automatic stay will be violated if the case is closed. During operational reviews, it was determined that holding these cases open for six months serves little purpose, and requires caseworkers to review the case initially, create a follow-up event for six months later, and then become familiar with the case again in order to close it. The majority of Chapter 7 corporate cases can potentially be closed after the initial review, and the six month requirement merely delays the closing unnecessarily.

Local procedures should be brought in line with the procedures outlined in this memorandum.

Procedures

The following procedures are effective immediately for all Chapter 7 corporate bankruptcy cases:

Closing a Chapter 7 corporate bankruptcy case can occur at any time if there are no issues requiring the case to remain open and there is only a slim chance a violation of the automatic stay will occur if the case is closed.

Before closing the case, Field Insolvency caseworkers should verify that there are no issues requiring the case to remain open, such as Trust Fund Recovery Penalty investigations or a referral to counsel. Caseworkers should also verify that the chance of a violation of the automatic stay occurring if the case is closed is slim.

To close the case, the Field Insolvency caseworker will document the AIS history with the following:

- Verification that there are no issues remaining which would require the case to remain open.
- A request to close the filing requirements for this entity.
- A request to input TC 530 cc 07.
- Any other actions the CIO should take when closing the case, such as transfer of funds to excess collections or the unidentified remittance file.

The Field Insolvency manager must document the history agreeing that the case is ready for closing and approving the TC 530 request. No paper form is necessary to request that the TC 530 be input when the approval is shown in the AIS history.

The case can then be transferred to the CIO for closing actions. CIO caseworkers will:

- Request closure of the filing requirements.
- Input TC 530 cc 07.
- Input a TC 521 with a two cycle delay to allow time for the TC 530 to post.
- Document actions in the AIS history.
- Close the case on AIS by utilizing the "Other Closing Action" method of closure.